

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
S/S Smith Avenue, 110' W of * DEPUTY ZONING COMMISSIONER
Labrinth Road * OF BALTIMORE COUNTY
(3115 Smith Avenue)
3rd Election District * Case No. 90-61-SPX
2nd Councilmanic District
Sheldon H. Zeller, D.C.
Petitioner

AMENDED ORDER

WHEREAS, the Petitioner requested a special exception to permit a doctor's office (home occupation) on the subject property on a part-time basis, in accordance with the plan submitted and identified as Petitioner's Exhibit 1;

WHEREAS, by Order issued August 30, 1989 the relief requested was granted, subject to restrictions;

WHEREAS, Counsel for Petitioner submitted a request for modification of Restriction No. 7 of said Order to permit an identification sign in compliance with the Zoning Regulations;

WHEREAS, the Deputy Zoning Commissioner concurs that a modification is appropriate in this instance;

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 1st day of November, 1989 that Restriction No. 7 of the Order issued August 30, 1989 be and the same is hereby AMENDED to read as follows:

"7) Petitioner shall be permitted to erect one (1) small identification sign in strict compliance with the Zoning Regulations. A design plan depicting the size and contents of the proposed sign shall be submitted to the Deputy Zoning Commissioner for approval prior to the issuance of any permits"; and,

IT IS FURTHER ORDERED that all other conditions and restrictions contained in the Order issued August 30, 1989 shall remain in full force and effect.

C. M. NASTAROWICZ
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:hjs

cc: Stephen S. Winegrad, Esquire, Kantor & Winegrad, McDonogh Crossroads, Suite 215, 20 Crossroads Drive, Owings Mills, Md. 21117

People's Counsel

File

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Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception to permit a doctor's office (home occupation) on the subject property on a part-time basis, in accordance with Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by Stephen S. Winegrad, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 3115 Smith Avenue, consists of 0.303 acres zoned D.R. 3.5 and is improved with a single family dwelling which has been Petitioner's residence for the past year. Dr. Zeller testified he received his B.S. from the University of Maryland and subsequently attended the Life Chiropractic College in Marietta, Georgia from 1982 to 1984, which was followed by a residency at the Cleveland Chiropractic College from 1984 through the end of 1985. Shortly thereafter, Dr. Zeller was licensed to practice in Maryland and has been practicing chiropractic for the past 3 years with another chiropractor out of an office on Reisterstown Road in the Cherryvale Shopping Center. Dr. Zeller testified that he works approximately 40 hours a week at this location and plans to continue to practice out of those offices but is desirous of setting up a small office in his home as set forth in Petitioner's Exhibit 1, not to exceed the 25% requirement. Testimony indicated that the proposed office will have no equipment other than an

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Date 9/24/89
By *John J. Johnson*

has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of August, 1989 that the Petition for Special Exception to permit a doctor's office (home occupation) on the subject property on a part-time basis, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following

restrictions which are conditions precedent to the relief granted:

1) The Petitioner may apply for his occupancy permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the

Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The special exception granted herein is limited to Dr. Zeller and his use of 825 sq.ft. of the subject property to practice chiropractic in the area designated as office space on Petitioner's Exhibit 1.

3) The only equipment permitted in the office will be a chiropractic table. At no time shall diagnostic equipment, including, but not limited to, x-ray equipment, be permitted on the premises.

4) Petitioner shall at no time see patients at the subject location more than 10 hours per week. Further, Dr. Zeller shall keep detailed records regarding dates, times and patients seen at this location and shall permit the review of same by the Office of Zoning upon request.

5) Upon request and reasonable notice, Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

6) The proposed extension of the existing driveway to create one additional parking space for patient parking need not be completed at this time. Installation will only be required in the event the Office of Zoning notifies Petitioner in writing that a parking problem appears to exist.

7) There shall be no signs advertising the use of a portion of the subject property for a professional office.

8) There shall be no more than one part-time, non-professional, non-resident person employed to assist Dr. Zeller in the operation of his practice on the subject property.

9) Within sixty (60) days from the date of this Order, a new deed shall be filed in the Land Records for Baltimore County which references this case and sets forth the restrictions and conditions contained herein. Proof of compliance with this restriction shall be filed by Petitioner within seventy-five (75) days of the date of this Order.

10) A landscaping plan for the subject property shall be submitted for review and approval by the Baltimore County Landscape Planner. A copy of the approved plan shall be submitted to this office for inclusion in the case file.

C. M. NASTAROWICZ
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:hjs

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Zoning Description

BEGINNING for the same and being known and designated as Lot No. 5, Block J, as shown on the Plat entitled, "Section 4, Green Spring Manor", which Plat is recorded among the Land Records of Baltimore County in Liber 21, folio 77. The improvements thereon being known as No. 3115 Smith Avenue.

adjustable table and ice packs. There will be no exterior changes to the existing dwelling, a two-story bi-level which has an exterior entrance to the area designated on Petitioner's Exhibit 1 as the proposed location for his office. Dr. Zeller testified that at no time will the office be used for more than 10 hours per week. Due to the setup, Dr. Zeller will not have two patients arriving at the same time. Testimony presented indicated that Dr. Zeller's driveway is adequate to park four vehicles at any one time without creating traffic problems. Presently, only Dr. Zeller and his wife park their vehicles in the driveway. Dr. Zeller testified that he has spoken with his neighbors who have voiced no objections. In fact, the adjoining property owner who would be most adversely affected by the proposed use, is Louis Shugartman, who by letter dated August 9, 1989 indicated he has no objections to Dr. Zeller's request. Testimony indicated that directly across from the property is the Pikesville Senior High School parking lot. Dr. Zeller addressed each of the requirements set forth in Section 502.1 and indicated the conditions imposed therein would be met by the proposed use. Testimony further indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the community.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 3.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner

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PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-61-X

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for A doctor's home office on a part-time basis

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

Legal Owner(s):

(Type or Print Name)

SHeldon H. Zeller, D.C.

Signature

Signature

Address

(Type or Print Name)

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 0066847

AVENUE

DATE 5-24-89 ACCOUNT T-01-115-001

AMOUNT \$ 110.00

RECEIVED FROM

John H. Zeller

FOR

110.00

8 812 ***** 1000018 3742

VALIDATION OR SIGNATURE OF CARRIER

YELLOW-GREEN

Phone No. 21208

Address

Address and phone number of legal owner, consumer or representative to be contacted

JOHN H. ZELLER, D.C.

(day) 833 8440

3115-SMITH AVE, Ave, 486 0199

Phone No.

e County, this 14 day

matter of this petition be advertised as

required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 25 day of Aug, 1989, at 9:30 a.m.

J. Robert Haines
Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING - 1/2 hr (over 1/2 hr)

APPLICABLE FOR HEARING

ALL FOR INFORMATION - NEW 2.00 DOLLARS

REVIEWED BY

DATE 5-24-89

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AUG 24 1989

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: August 15, 1989
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Sheldon Zeller, Item 517
Zoning Petition No. 90-61-X

The petitioner requests a special exception to use this residence for a doctor's office on a part-time basis. In reference to this request, staff recommends the following restrictions should the special exception be granted.

- A landscape plan must be filed that conforms with current regulations. Plant screening along the east and west provided between adjacent residences along the east and west property lines. The plan should be submitted and reviewed by the Baltimore County Landscape Planner.
- All of the restrictions set forth in Special Exception Case No. 89-534-X should be considered in this case at the Zoning Commissioner's discretion.

PK/JL/sf

AUG 17 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building, Suite 405
Towson, Maryland 21204
(301) 887-5554

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

July 24, 1989

RECEIVED
AUG 3 1989

ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 493, 511, 513, 516, 517, 519, 520, 521, 522, 524, 528, 529, 530, 531, 532, and 533.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF/lab

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Reincke
Chief

JUNE 14, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: SHELDON H. ZELLER
Location: #3115 SMITH AVENUE
Item No.: 517 Zoning Agenda: JUNE 13, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Paul H. Reincke* Noted and Approved
Planning Section
Special Inspection Division

JK/KER

JAN 19 1990

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 22, 1989
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting for June 13, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521, 522, 524, 528, 529, 531, and 532.

For Item 511, the minimum panhandle width for one lot is 20 feet, not 10 feet as shown on the plan.

For Items 513, 516 and 533 the previous County Review Group Comments still apply.

For Item 519, all lots must have in-free frontage to a public road.

For Item 530, comments are attached.

RWB:s

Encl.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
FOR
PLAT
LOT N9S-BLOCKJ-SECTION 4-GREEN SPRING MANOR
(KNOWN AS: 3115 SMITH AVENUE) (21/77)
ELECTION DISTRICT 3-BALTIMORE COUNTY, MARYLAND

DATE: APRIL 11, 1989

SCALE: 1" = 30'

#40275

RECEIVED
Harris & Smariga & Katz, Inc.
115 B Sudbrook Lane
Pikesville, Maryland 21208
Call for Appointment - Land Planners
Surveyors & Landscape Architects
(301) 486-1511

PROPERTY OWNER
DR. SHELDON H. ZELLER
3115 SMITH AVENUE
PIKESVILLE, MD 21208
TEL. 633-8440
DEED REF.
TAX ACCT. NE 506/082500

EXISTING PAVING

PROPOSED OFFICE USE SHOWN THUS

1. LOT AREA - 0.303 ACRES (NET).
2. EXISTING ZONING - DR-3.5.
3. PUBLIC SEWER & WATER SERVICE THE SUBJECT SITE.
4. THERE ARE NO STRAINS WITHIN 200' OF THIS SITE.
5. SUBJECT SITE IS LOCATED WITHIN THE FOLLOWING:
ELECTION DISTRICT - 3
CONGRESSIONAL DISTRICT - 2
CENSUS TRACT 18 - 4035

6. EXISTING 3 STORY BUILDING - 3,300 sq. ft.
PERMITTED OFFICE USE (CITY) - 212 sq. ft.

7. PROPOSED OFFICE USE - 125 sq. ft.

8. OFF. STREET PARKING: 2 SPACES
REQUIRED - EX. DRIVE.

PROPOSED OFFICE (4,500 sq. ft.) 1 SPACE
TOTAL PARKING SPACES REQUIRED - 3.

TOTAL PARKING SPACES PROVIDED - 2.

9. THIS PLAT WAS PREPARED IN ACCORDANCE WITH
SECTION 101.01C.1B OF THE BALTIMORE COUNTY
ZONING RESOLUTIONS.

EXISTING PAVING

PROPOSED OFFICE USE SHOWN THUS

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